THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NO: 1856 of 2006

Dated: 03-08-2006

Between:

Smt. K.Hyma Choudhary

..... PETITIONER

AND

The General Manager,
South Central Railway,
Railnilayam, Secunderabad and
two others.

.....RESPONDENTS

THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NO: 1856 of 2006

O R D E R:

This writ petition is filed seeking a declaration that the alleged action of the respondents and their officials in interfering with the land and structures covered by Sy.No.619 admeasuring Ac.4.38 guntas, situated in Moula Ali village, Malkajgiri Mandal, Ranga Reddy District without acquiring the same is arbitrary and illegal.

The petitioner claims to be the absolute owner and possessor of the land to an extent of Ac.4.38 guntas in Sy.No.619 situated in Moula Ali village, Malkajgiri Mandal, Ranga Reddy District. It is stated that the said land was purchased by his late father under a registered sale deed dated 01-01-1956 and the same was bequeathed to him by a gift deed dated 11-08-1967. It is not in dispute that the South Central Railway acquired certain lands belonging to the petitioner situated in different survey numbers of the same village, but it is claimed that the land covered under Sy.No.619 is not the subject matter of the acquisition, however, the Officials of the respondents have been interfering with the possession and enjoyment of the said land and trying to dispossess the petitioner without following due process of law.

On behalf of the respondents a counter affidavit has been

filed stating that the land covered by different survey numbers was acquired in the year 1965 by paying the compensation to the owner of the land. So far as the land situated in Sy.No.619 is concerned, it is stated that it is in possession of South Central Railway, where railway quarters are existing since Nizam Guaranteed State Railways. Hence, the question of acquisition of the land covered by Sy.No.619 does not arise. The allegations made by the petitioner that the officials of the respondents have been attempting to interfere with the possession of the petitioner has been denied and it is stated that as a matter of fact, after obtaining the interim orders from this Court, the petitioner illegally occupied the land in Sy.No.96 of Lalaguda village and dismantled the railway structures.

In the light of the above pleadings, it is clear that both the parties are claiming title and possession of the land in question i.e. Ac.4.38 guntas situated in Sy.No.619. Such a disputed question of fact cannot be gone into and decided by this Court in exercise of jurisdiction under Article 226 of the Constitution of India.

In the circumstances, without expressing any opinion as to the rival claims made by the parties, the writ petition is disposed of granting leave and liberty to the petitioner to work out the common law remedy as available under law for redressal of his grievance. However, keeping in view the interim orders granted by this Court, pending this writ petition, both the parties are directed to maintain *status quo* obtaining as on today as to the nature and possession of the land in question for a period of six weeks from today. No costs.

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G. ROHINI, J

Dated: 03-08-2006
Note: Issue C.c. in three days.
B/o
KLP